

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego
Gas & Electric Company (U 902-E) for a
Certificate Of Public Convenience & Necessity
Valley-Rainbow 500kV Inter-Connect Project.

Application 01-03-036
(Filed March 23, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING
ADDRESSING MOTION TO STRIKE**

1. Summary

The April 26, 2002 motion by Save Southwest Riverside County (SSRC), the City of Temecula, and the Pechanga Development Corporation (jointly, Temecula Parties) to strike portions of rebuttal testimony by San Diego Gas & Electric Company (SDG&E) is granted in part and denied in part as described below.

2. Procedural Background

On April 26, 2002, the Temecula Parties filed a motion to strike portions of rebuttal testimony prepared by SDG&E. SDG&E filed a response to the motion on the same day. At the April 29, 2002 prehearing conference (PHC), we heard argument on the motion. SDG&E's rebuttal testimony was marked for identification as Exhibit 5. Pursuant to my order at the PHC, the Temecula Parties prepared a strikeout version of the SDG&E rebuttal testimony and circulated it electronically to the parties on May 1, 2002.

Temecula Parties' Motion

Temecula Parties seek to strike portions of prepared rebuttal testimony by SDG&E that focuses on inclusion of bid adder/scarcity premium in modeling results as well as other changes to assumptions. Temecula Parties argue that SDG&E's rebuttal testimony is not responsive testimony because the study it relies on was prepared prior to submission of SDG&E's opening testimony and it was specifically NOT relied on in the opening testimony. Temecula Parties argue that to the extent that SDG&E wanted to rely on this analysis as a basis for its position, it should have done so in its opening testimony so that all parties had an opportunity to respond. SDG&E argues that its rebuttal testimony is responsive testimony, the study relied on was provided to Temecula Parties during discovery, and that the rebuttal testimony will ensure a fuller record.

I agree that it is important for the Commission to understand how major changes to different assumptions can impact the calculation of ratepayer benefits. However, by presenting this testimony as rebuttal, rather than opening testimony, other parties are severely prejudiced in their opportunity to respond to SDG&E's showing. In my judgment, if certain of the testimony is not stricken, due process requires that parties be provided with an opportunity to respond to this testimony. SDG&E has opposed a motion to delay hearings filed by the Office of Ratepayer Advocates. Rather than delay the hearings to allow for an additional round of responsive testimony, I will strike the portions of the SDG&E rebuttal testimony identified below.

- Exhibit 5, Chapter V, page V-4, line 15, beginning with "For example..." through page V-5, line 15.
- Exhibit 5, Chapter V, page V-6, line 22 through page V-9, line 4.

- Exhibit 5, Chapter V, page V-10, lines 12 through 14.
- Exhibit 5, Chapter V, page V-11, line 13, beginning with “and 3B...” and ending with “and 1-2) both.”
- Exhibit 5, Chapter V, page V-12, line 21, the words “or 3B.”
- Exhibit 5, Chapter V, page V-12, line 22, the words “and 3B.”
- Exhibit 5, Chapter V, page V-13, line 1, the words “or 3B.”
- Exhibit 5, Chapter V, page V-14, line 20, the words “and 3B.”
- Exhibit 5, Chapter V, page V-14, line 24 through page V-16, line 7.
- Exhibit 5, Chapter V, page V-16, line 18, beginning with “This phenomenon...” through line 19, ending with “table above.”
- Exhibit 5, Chapter V, page V-26, line 16, beginning with “In the numbers...” through line 19.
- Exhibit 5, Chapter V, page V-32, line 10, beginning with “As Revised...” through line 12, ending with “6 years).”
- Exhibit 5, Chapter V, page V-32, line 18, beginning with “Revised Table...” through line 23.
- Exhibit 5, Chapter V, page V-33, line 12 through line 17.
- Exhibit 5, Chapter V, page V-34, line 2 beginning with “The benefits....” through line 6, ending with “drought year.”

In all other respects, the motion to strike is denied.

IT IS RULED that the April 26, 2002 motion to strike by Temecula Parties is granted in part as described above, but is denied in all other respects.

Dated May 2, 2002, at San Francisco, California.

/s/ MICHELLE COOKE

Michelle Cooke
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Addressing Motion to Strike on all parties of record in this proceeding or their attorneys of record. In addition, service was also performed by electronic mail.

Dated May 2, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.